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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,586	12/29/2003	Martin R. Willard	1001.1714101	8579

28075 7590 02/14/2006

CROMPTON, SEAGER & TUFTE, LLC  
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MINNEAPOLIS, MN 55403-2420

EXAMINER

BRUENJES, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/750,586

Applicant(s)

WILLARD ET AL.

Examiner

Christopher P. Bruenjes

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 26 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 1772

**DETAILED ACTION**

***EXAMINER'S NOTES***

1. Claim 1 in the original claim set received by the Office in this case on December 29, 2003 did not have the limitation "including a polymer blend shaft" in line 1 of the claim. This is the reason that the 35 U.S.C. 112 rejection was made to require the limitation "a polymer blend shaft comprising" to be added to the claim. Therefore, in the current claim set as presented in the Paper filed October 12, 2005, the limitation suggested by the Examiner is not necessary and should be deleted.

***Election/Restrictions***

2. Applicant's election without traverse of Group 1, claims 1-25 in the reply filed on January 12, 2006 is acknowledged.

3. Claims 26-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 12, 2006.

Art Unit: 1772

**WITHDRAWN REJECTIONS**

4. The 35 U.S.C. 112 rejections of claims 2-3 of record in the Office Action mailed October 12, 2005, Page 4 Paragraph 5, have been withdrawn due to Applicant's amendments in the Paper filed January 12, 2006.

**REPEATED REJECTIONS**

5. The 35 U.S.C. 103 rejections of claims 1-25 over Itou in view of Utsumi are repeated for the reasons set forth in the previous Office Action mailed October 12, 2006, Pages 5-11 Paragraph 6.

Regarding the newly added limitation to claims 1, 7, 12, 19, 24, and 25 that the intermediate portion "has a uniform wall thickness", the Figures 3 and 12-16 of Itou show a uniform thickness in the final catheter shafts. Furthermore, Itou teaches that the inner diameter and the outer diameter of each of the base tube and the outer layer are set constant (col.10, 1.44-46).

**ANSWERS TO APPLICANT'S ARGUMENTS**

6. Applicant's arguments regarding the 35 U.S.C. 112 rejections have been considered but they are moot since the rejections have been withdrawn.

Art Unit: 1772

7. Applicant's arguments regarding the 35 U.S.C. 103 rejections of claims 1-25 over Itou in view of Utsumi have been fully considered but they are not found persuasive.

In response to Applicant's argument that Itou fail to teach a uniform wall thickness for the intermediate portion of the shaft since Itou teaches that the shaft is made by braiding linear members that cross over and leave gaps, the wall thickness of the intermediate portion is only non-uniform during the manufacturing steps not in the final product. The claimed invention is the final product, so the final product of Itou is applied as prior art, not the intermediate product. In the formation of the catheter shaft of Itou linear members are braided onto the shaft, however, after braiding the linear members the members are melted and fused and mixed (col.4, 1.47-col.5, 1.7). Therefore, the gaps are eliminated and the cross over areas are fused and mixed together and the thickness of the wall throughout the catheter shaft is uniform as shown in Figure 3 and 12-16 and as taught in column 10, lines 44-50, unless it is particularly desired to change the inner and outer diameters of the shaft along the longitudinal direction.

**Conclusion**

Art Unit: 1772

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Bruenjes whose telephone number is 571-272-1489. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1772

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher P Bruenjes  
Examiner  
Art Unit 1772

CPB *CPB*  
February 10, 2006

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

*2/10/06*